

Appl. No. 09/981,421
 Petition to Grant Filing Date
 Petition filed June 14, 2005

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 8 pages

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In the Application of:
 John E. Sims et al.

Docket No.: 3086-A

Serial No: 09/981,421

Group Art Unit: 1646

Filed: October 17, 2001

Examiner: Jiang, Dong

For: METHODS FOR TREATING IL-18 MEDIATED DISORDERS

MAIL STOP PETITIONS
 Commissioner for Patents
 P.O. Box 1450
 Alexandria, VA 22313-1450

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PETITION TO GRANT FILING DATE AND
 FEE PURSUANT TO 37 C.F.R. 1.17(f)

Dear Sir:

The above-identified patent application was filed October 17, 2001 claiming the benefit of Provisional Application No. 60/241,408 filed October 18, 2000. On November 19, 2001 the US Patent Office mailed a Notice to File Missing Parts of Nonprovisional Application (The Notice). The Notice asserted that Figure 3B described in the specification had been omitted from the application mailed October 17, 2001. Applicants responded to the Notice on January 18, 2002 but did not forward a copy of Fig 3B with the response. The US Patent Office mailed an Updated Filing Receipt for this application on February 14, 2002. The Updated Filing Receipt assigned this application a filing date of January 18, 2002.

Applicants respectfully request that a filing date of October 17, 2001 be accorded to this application and a corrected filing receipt be issued to reflect October 17, 2001 as the filing date. Applicants believe that Fig 3B was not missing in Applicants October 17, 2001 filing papers and the October 17, 2001 filing date is the correct date.

Applicants' own records indicate that 5 pages of drawings were sent to the US PTO with the contents of the Express Mail package mailed October 17, 2001 having Label No. EL591095565US. The total number of drawings for this application is 5 pages and include Fig 1, Fig. 2A, Fig 2B, Fig. 3A, and Fig 3B. Further, the USPTO acknowledged receipt of 5 pages with a return postcard. The application transmittal letter and 5 drawing pages received is evidenced by the documents included in Appendix A accompanying this Petition. Appendix A documents include a copy of the formal filing papers, a copy of the return postcard and a copy of the USPTO stamped return postcard.

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In addition to the filing papers, the postcard and the return postcard, Applicants note that Application Publication No. US2002/0098185 contains five pages of drawings, including Fig. 3B. Since Applicants supplied the Patent Office with only the filing papers sent October 17, 2001, and NOT a copy of 3B, the source of Fig 3B for publication is the application sent October 17, 2001.

Applicants further submit that Fig. 3B is not necessary to meet the Section 112 requirement for this application and therefore is not a necessary component of the application. The claims are directed to methods of treating disease with an IL-18R Ab. Fig. 3B graphically shows relative levels of mRNAs encoding for IL-1 alpha and IL-1 beta in the large intestines of a DSS mouse model, confirming the indicators of inflammation are upregulated in the models. Page 30 of the application describes the data and the results. Accordingly, Fig. 3B is not necessary for enablement or written description or other Section 112 requirements and not necessary to meeting the application filing requirements.

Based upon the above, Applicants submit that the filing date of this application is the date of deposit of the application and respectfully request that this application be accorded the filing date of October 17, 2001 and that a corrected Filing Receipt be issued to reflect the correct date.

The Commissioner is hereby authorized to charge the \$400 surcharge required by §1.17(f) or credit any overpayment to Deposit Account No. 09-0089. Applicants enclose an original and one copy of this paper. However, since Applicants have effectively shown that no defect exists in this application, Applicants request a refund of the accompanying petition fee pursuant to 37 C.F.R. 1.17(f) upon favorable decision.

Respectfully submitted,

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CERTIFICATE OF FACSIMILE TRANSMISSION

I hereby certify that this correspondence is being facsimile transmitted to the United States Patent and Trademark Office on the date indicated below.

Signed: Nanci M. Kertson
Nanci M. Kertson

Date: June 14, 2005